

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FOREST LEWIS, DEBORAH LEWIS,
KELLIE KRETCHMER, VICTOR BAKER,
JUDITH BAKER, ANTHONY GAGLIARDI and
JANE GAGLIARDI, *individually and as Parents of*
Tyler Gagliardi, infant, GREGORY RYDZA,
SUSAN RYDZA, ASHLEY RYDZA,
JEREMY RYDZA and JESSIE DIPIRRO,

Plaintiffs,

v.

ORDER
04-CV-331S

FMC CORPORATION,

Defendant.

1. On August 23, 2006, Defendant filed a Motion to Compel Discovery. (See Docket No. 38.) The parties briefed the motion and appeared before the Honorable Leslie G. Foschio, United States Magistrate Judge, on October 4, 2006, for oral argument. At that time, Judge Foschio granted Defendant's motion from the bench and awarded costs and fees. (See Docket No. 53.)

2. On October 20, 2006, Plaintiffs filed Objections to Judge Foschio's oral order. This Court thereafter directed that the transcript from the October 4, 2006 appearance be provided and put in place a briefing schedule on Plaintiffs' Objections. (See Docket No. 56.) The transcript has been filed and the Objections are now fully briefed. For the reasons that follow, Plaintiff's Objections are denied.

3. Pursuant to 28 U.S.C. § 636(b)(1)(A), a magistrate judge may, with certain exceptions, hear and determine any pretrial matter pending before the court. The magistrate judge's order on such a pretrial matter will be reconsidered by the district judge

only when it has been established that it is clearly erroneous or contrary to law. See 28 U.S.C. § 636(b)(1)(A).

4. This Court has reviewed Plaintiffs' Objections and carefully reviewed the transcript of the October 4, 2006 appearance. (See Docket No. 57.) In this Court's view, Plaintiffs have come forth with no cause to disturb Judge Foschio's ruling. Clearly Plaintiffs disagree with Judge Foschio's conclusion, but this alone does not serve as cause to disturb a magistrate judge's decision. Nothing in Plaintiffs' Objections establish that Judge Foschio's decision is clearly erroneous or contrary to law. Accordingly, this Court will deny Plaintiffs' Objections.

IT HEREBY IS ORDERED, that Plaintiffs' Objections to Judge Foschio's October 4, 2006 Order (Docket No. 55) are DENIED.

FURTHER, that Judge Foschio's October 4, 2006 Order (Docket No. 53), as fully set forth in the transcript (Docket No. 57), is AFFIRMED in its entirety.

FURTHER, that Defendant's Motion to Compel Discovery (Docket No. 38) is GRANTED consistent with Judge Foschio's ruling.

SO ORDERED.

Dated: December 22, 2006
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge